

SCHEDULE 1
TO THE ORDER

THE CONSTITUTION OF ST. HELENA
THE CONSTITUTION OF ST. HELENA

PART III

LEGISLATIVE COUNCIL

Legislative Council.

15.—(1) There shall be a Legislative Council for St. Helena which shall consist of—

- (a) the Speaker;
- (b) three *Ex-officio* Members, that is to say, the persons for the time being discharging the functions of—
 - (i) the Chief Secretary of St. Helena;
 - (ii) the Financial Secretary of St. Helena; and
 - (iii) the Attorney General of St. Helena;
- (c) twelve Elected Members, who shall be persons qualified for election in accordance with the provisions of this Constitution; and
- (d) such Temporary Members as may be appointed under section 16(2) of this Constitution.

(2) The Elected Members of the Legislative Council shall be elected in the manner provided by any law in force in St. Helena.

(3) For the purpose of electing the Elected Members of the Legislative Council the Governor by regulations published in the Gazette shall provide for dividing St. Helena into electoral areas, and shall prescribe the names and boundaries of the electoral areas so established.

Temporary Members of Legislative Council.

16.—(1) The Governor may, by writing under his hand, declare that an *Ex-officio* Member of the Legislative Council is, by reason of absence or illness, temporarily unable to discharge his functions as a member of the Council, and thereupon that member shall not take part in the proceedings of the Council until he is declared in manner aforesaid to be again able to discharge those functions.

(2) If an *Ex-officio* Member of the Legislative Council is incapable of taking part in the proceedings of the Council by reason of a declaration made under subsection (1) of this section, the Governor may appoint to be a Temporary Member of the Council a person who holds a public office.

(3) The Governor shall forthwith report to Her Majesty through a Secretary of State any appointment made under this section.

(4) A person appointed under this section to be a Temporary Member of the Legislative Council—

- (a) shall hold his seat in the Council during Her Majesty's pleasure;
- (b) shall vacate his seat in the Council when he is informed by the Governor that the member on account of whose incapacity he was appointed is again able to discharge his functions as a member of the Council, or when the vacancy has otherwise ceased to exist.

(5) The powers conferred upon the Governor by this section shall be exercised by him in his discretion.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Qualifications and disqualifications of Elected Members of Legislative Council.

17.—(1) A person elected an Elected Member of the Legislative Council shall be a British citizen or British Dependent Territories citizen who has attained the age of twenty-one years and shall be a person who is registered as a voter, and no person shall be qualified to be so elected who—

- (a) is, by virtue of his own act, under any acknowledgement of allegiance, obedience or adherence to a foreign power or state;
- (b) subject to subsection (2) of this section, holds, or is acting in, any public office;
- (c) is an undischarged bankrupt, having been adjudged or otherwise declared bankrupt under any law in force in any part of the Commonwealth;
- (d) is mentally ill within the meaning of any law in force in St. Helena;
- (e) is under sentence of death imposed on him by a court of law in any country, or is under a sentence of imprisonment (by whatever name called) for a term of or exceeding twelve months, other than a sentence in lieu of a fine, but including a suspended sentence, imposed on him by such a court or substituted by competent authority for some other sentence imposed on him by such a court;
- (f) is disqualified for membership of the Council under any law in force in St. Helena relating to offences connected with elections; or
- (g) holds, or is acting in, any office the functions of which involve any responsibility for, or in connection with, the conduct of any election or the compilation or revision of any electoral register.

(2) The Governor, acting in his discretion, may by notice published in the Gazette make provision for enabling any public officer or class of public officer not otherwise disqualified under subsection (1) of this section to be qualified to be elected as an Elected Member of the Legislative Council.

(3) For the purpose of subsection (1)(e) of this section, two or more terms of imprisonment that are required to be served consecutively shall be regarded as a single term of imprisonment for the aggregate period of those terms.

Tenure of office of Elected Members of Legislative Council

18. The seat of an Elected Member of the Legislative Council shall become vacant—

- (a) upon a dissolution of the Council;
- (b) if for a consecutive period of six months he is absent from meetings of the Council without the prior written permission of the Speaker;
- (c) if any circumstance arises that, if he were not a member of the Council, would cause him to be disqualified for election thereto by virtue of paragraph (a), (b), (c), (d), (f) or (g) of section 17(1) of this Constitution; or
- (d) in the circumstances mentioned in section 19 of this Constitution.

Vacation of seat on sentence, etc.

19.—(1) Subject to the provisions of this section, if an Elected Member of the Legislative Council is sentenced by a court of law in any country to death or to imprisonment (by whatever name called) for a term of or exceeding twelve months, he shall forthwith cease to discharge his functions as a member of the Council, and his seat in the Council shall become vacant at the expiration of a period of thirty days thereafter:

Provided that the Speaker may, at the request of the member, from time to time extend that period for thirty days to enable the member to pursue any appeal in respect of his conviction or sentence,

save that extensions of time exceeding in the aggregate three hundred and thirty days shall not be granted without the approval of the Council signified by resolution.

(2) If at any time before the member vacates his seat he receives a free pardon or his conviction is set aside or his sentence is reduced to a term of imprisonment of less than twelve months or a punishment other than imprisonment is substituted, his seat in the Legislative Council shall not become vacant under this section, and he may again discharge his functions as a member of the Council.

(3) For the purpose of this section, two or more terms of imprisonment that are required to be served consecutively shall be regarded as a single term of imprisonment for the aggregate period of those terms.

Determination of questions as to membership of Legislative Council.

20.—(1) Any question whether—

- (a) a person has been validly appointed a Temporary Member of the Legislative Council; or
- (b) a person has vacated his seat therein as such a member, shall be determined by the Governor, acting in his discretion.

(2) Any question whether—

- (a) a person has been validly elected an Elected Member of the Legislative Council; or
- (b) an Elected Member of the Legislative Council has vacated his seat therein or is required under section 19 of this Constitution to cease to discharge his functions as a member,

shall be determined by the Supreme Court in accordance with any law in force in St. Helena. The decision of the Supreme Court shall be final and not subject to any appeal.

(3) An application to the Supreme Court for the determination of any question under subsection (2) of this section may be made by the Attorney General or by any person who is a registered voter; and an application for the determination of any question under paragraph (b) of that subsection may also be made by any member of the Legislative Council.

Law as to elections.

21. Subject to the provisions of this Constitution, a law enacted under this Constitution may provide for the election of members of the Legislative Council, and in particular, and without prejudice to the generality of the foregoing power, may provide for—

- (a) the qualifications and disqualifications of voters;
- (b) the registration of voters;
- (c) the ascertainment of the qualifications of candidates for election and of voters;
- (d) the holding of elections; and
- (e) the definition and trial of offences connected with elections and the imposition of penalties therefor, including disqualification for membership of the Legislative Council, or for registration as a voter, or for voting at elections, of any person concerned in any such offence.